

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 97002

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-027-97

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

For Filing Administrative
Regulations

For Emergency
Regulations Only

Effective Date _____

Expiration Date _____

Governor's Signature

State Environmental Commission

Classification [] Proposed [] Adopted By Agency [xx] Temporary [] Emergency []

Brief description of action: **Petition 97002 (LCB R-027-97)** amends NAC 445A.070 to 445A.348, Water Pollution Control, by amending the mining water pollution control fees in NAC 445A.232. The regulation adds new annual threshold categories for chemically processing mine solutions including less than 18,250 tons, 18,250 to 36,500 tons, 36,500 to 100,000 tons and two new categories greater than 500,000 to 2,000,000 tons. Annual fees are proposed to be increased in three increments over six years. The increments cover the period of State Fiscal Years (July 1st to June 30th) 1998 to 1999, 2000 to 2001 and 2002 to 2003. Original and Renewal fees are also increased once but will remain constant to fiscal year 2003.

Authority citation other than 233B: NRS 445A.430

Notice date: August 21, August 27 and September 2, 1997

Hearing date: September 23, 1997

Date of Adoption of Agency: September 23, 1997

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 97002 (LCB R-027-97)**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445A.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 97002 (LCB R-027-97), was noticed three (3) times: April 29, May 7 and May 15, 1997 as a temporary regulation and three times on August 21, August 27 and September 2 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. The public was also mailed the public notice through the Environmental Commission's mailing list. No public comment was received. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

- | | | |
|-----|---|----|
| (a) | Attended each hearing; | 22 |
| (b) | Testified at each hearing; | 14 |
| (c) | Submitted to the agency written comments: | 8 |

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. Comments supporting the proposed mining fee increase received from the Nevada Mining Association. The Division of Environmental Protection conducted extensive workshops with the mining community prior to the public hearing. The workshops were held on April 1, April 2, April 7, April 11, 1997. No comments, written or verbal were received during the permanent adoption of the regulation. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted by the State Environmental Commission without amendments on September 23, 1997. No amendments were proposed or offered during adoption of the permanent regulation.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

The change in fees will increase permitting costs for the mining industry. The additional fees will allow sufficient manpower and resources to adequately regulate and accommodate the rapid growth that has occurred in the mining industry. The fees will translate into an increased level of service that will allow for prompt permit issuance, approval of required plans and better coordination with federal agencies. There will be no adverse economic impact to the public, but marginal mining operations could possibly reduce employment due to the fee increases. The increased quality of regulation will better protect the environment, public health and safety.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no increased cost to the Division of Environmental Protection for enforcement of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agencies which the proposed regulation overlaps or duplicates.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

This regulation is no more stringent than federal requirements.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation will increase fees for the mining industry. Approximately an additional \$ 4,240,000 will be collected over six years, with an average annual amount of \$ 706,000. The additional funds will pay for regulation of the mining industry including permitting, enforcement and mine closure.

ADOPTED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R027-97

Petition 97002

Explanation: Matter in *italics* is new language. Matter in [] is material to be omitted.

AUTHORITY: §1, NRS 445A.425; §§2-5, NRS 445A.425 and 445A.430.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto a new section to read as follows:

1. A modification to the design of a facility for which a permit has been granted by the department does not require a new public notice if:

(a) The modification requires review by the department pursuant to NAC 445A.350 to 445A.447, inclusive; and

(b) The commission determines that the modification is not a modification of such significance as to constitute a "minor modification" or a "major modification," as those terms are described in NAC 445A.416 and 445A.417, respectively.

2. Such a modification may not extend the term of the permit.

Sec. 2. NAC 445A.232 is hereby amended to read as follows:

445A.232 1. Except as otherwise provided in subsections 2 and 5, a nonrefundable application fee must accompany each original application for a permit and each application to renew a permit which is submitted to or required by the director. The director shall charge the following fees:

Type of Discharge Fee for Original	Application Fee for Renewal Permit	Application Annual of Permit	Fee Permitted Review and
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Services

DOMESTIC WASTE WATER

5,000 or more but less than 25,000 gallons daily	\$375	\$125	\$600
25,000 or more but less than 100,000 gallons daily	500	250	850
100,000 or more but less than 1,000,000 gallons daily	750	375	1,000
1,000,000 or more but less than 10,000,000 gallons daily	1,000	500	2,000
10,000,000 or more gallons daily	1,250	625	2,500

MANUFACTURING, POWER PLANTS (excluding geothermal power plants which are not subject to NPDES), MINING DEWATERING AND OTHER INDUSTRY

Cooling water only	\$625	\$315	\$1,000
Less than 50,000 gallons of process water daily	625	315	1,500
50,000 or more but less than 1,000,000 gallons of process water daily	875	440	2,000
1,000,000 or more but less than 5,000,000 gallons of process water daily	1,000	500	2,500
5,000,000 or more gallons of process water daily	1,250	625	3,000

Petition 97002 was adopted as a temporary regulation by the State Environmental Commission on May 29, 1997, and filed with the Secretary of State on May 30, 1997. The Legislative Counsel Bureau drafted Petition 97002 into permanent regulatory language as LCB File No. R-027-97. R-027-97 was adopted as a permanent regulation by the State Environmental Commission on September 23, 1997 and became effective on October 29, 1997, when filed with the Secretary of State by the Legislative Counsel Bureau.
CODIFIED MARCH 10, 1998

WATER TREATMENT PLANTS

Intermittent discharge	\$250	\$125	\$500
Routine discharge	375	190	750

MINING

Discharging washwater where
chemicals are not added for
metallurgical recovery

~~[\$400]~~ *\$500* ~~[\$200]~~ *\$500* ~~[\$200]~~ *\$250*

Chemically processing
less than ~~[10,000]~~ *18,250* tons per
year or a pilot or testing
facility

~~[300]~~ *500* ~~[150]~~ *500* ~~[150]~~ *250*

Chemically processing
~~[10,000]~~ *18,250* to less than
~~[100,000]~~ *36,500* tons per year

~~[3,000]~~ *1,500* ~~[2,000]~~ *1,500* ~~[1,500]~~ *1,000*

*Chemically processing
36,500 to less than
100,000 tons per year*

4,000 *4,000* *2,000*

Chemically processing
100,000 to less than
500,000 tons per year

~~[4,000]~~ *6,000* ~~[3,000]~~ *6,000* ~~[2,000]~~ *4,000*

Chemically processing
~~[more than 500,000
tons in 1 year]~~

8,000 *6,000* *4,000]*

*500,000 to less than
1,000,000 tons per year*

10,000 *10,000* *6,000*

*Chemically processing
1,000,000 to less than
2,000,000 tons per year*

14,000 *14,000* *10,000*

*Chemically processing
more than 2,000,000
tons per year*

20,000 *20,000* *16,000*

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<i>Monitoring of closed facilities</i>	<i>250</i>	<i>250</i>	<i>500</i>
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STORM WATER RUNOFF

Industrial or commercial facility, including any structure, that is 5 to 10 acres, inclusive, in size	\$300	\$150	\$750
Industrial or commercial facility, including any structure, that is greater than 10 acres and less than 25 acres in size	600	300	750
Industrial or commercial facility, including any structure, that is greater than 25 acres in size	1,000	500	750
Municipality whose population is 250,000 or less	600	300	750
Municipality whose population is greater than 250,000	1,000	500	1,000

MISCELLANEOUS DISCHARGES

Discharge from fish hatcheries	\$250	\$125	\$300
Other permits for discharge	250	125	500

2. An applicant for a permit or for the renewal of a permit to use wastewater for irrigation which has been treated by a person other than the applicant must pay a fee in an amount equal to 75 percent of the amount of the fee required by subsection 1 for domestic wastewater.

3. The fee for a permit with a term of less than 5 years must be reduced by the director in accordance with the term of the permit, but in no case may the fee be reduced by an amount equal to more than one-third of the fee stated in subsection 1.

4. If required, the fee for the annual review and services must be submitted to the division on or before July

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1 of each year.

5. If a storm water runoff permit is not required, the director may refund the application fee for the permit.

Sec. 3. NAC 445A.232 is hereby amended to read as follows:

445A.232 1. Except as otherwise provided in subsections 2 and 5, a nonrefundable application fee must accompany each original application for a permit and each application to renew a permit which is submitted to or required by the director. The director shall charge the following fees:

Type of Discharge Permitted	Application Fee for Original Permit	Application Fee for Renewal of Permit	Fee for Annual Review and Services
DOMESTIC WASTE WATER			
5,000 or more but less than 25,000 gallons daily	\$375	\$125	\$600
25,000 or more but less than 100,000 gallons daily	500	250	850
100,000 or more but less than 1,000,000 gallons daily	750	375	1,000
1,000,000 or more but less than 10,000,000 gallons daily	1,000	500	2,000
10,000,000 or more gallons daily	1,250	625	2,500

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MANUFACTURING, POWER PLANTS (excluding geothermal power plants which are not subject to NPDES), MINING DEWATERING AND OTHER INDUSTRY

Cooling water only	\$625	\$315	\$1,000
Less than 50,000 gallons of process water daily	625	315	1,500
50,000 or more but less than 1,000,000 gallons of process water daily	875	440	2,000
1,000,000 or more but less than 5,000,000 gallons of process water daily	1,000	500	2,500
5,000,000 or more gallons of process water daily	1,250	625	3,000

WATER TREATMENT PLANTS

Intermittent discharge	\$250	\$125	\$500
Routine discharge	375	190	750

MINING

Discharging washwater where chemicals are not added for metallurgical recovery	\$500	\$500	\$250
Chemically processing less than 18,250 tons per year or a pilot or testing facility	500	500	250
Chemically processing 18,250 to less than 36,500 tons per year	1,500	1,500	[1,000] 1,500

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Chemically processing 36,500 to less than 100,000 tons per year	4,000	4,000	[2,000]	3,000
Chemically processing 100,000 to less than 500,000 tons per year	6,000	6,000	[4,000]	6,000
Chemically processing 500,000 to less than 1,000,000 tons per year	10,000	10,000		[6,000] 8,000
Chemically processing 1,000,000 tons to less than 2,000,000 tons per year	14,000	14,000	[10,000]	12,000
Chemically processing more than 2,000,000 tons per year	20,000	20,000	[16,000]	18,000
Monitoring of closed facilities	250	250		500

STORM WATER RUNOFF

Industrial or commercial facility, including any structure, that is 5 to 10 acres, inclusive, in size	\$300	\$150		\$750
Industrial or commercial facility, including any structure, that is greater than 10 acres and less than 25 acres in size	600	300		750
Industrial or commercial facility, including any structure, that is greater than 25 acres in size	1,000	500		750
Municipality whose				

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population is 250,000 or less	600	300	750
Municipality whose population is greater than 250,000	1,000	500	1,000

MISCELLANEOUS DISCHARGES

Discharge from fish hatcheries	\$250	\$125	\$300
Other permits for discharge	250	125	500

2. An applicant for a permit or for the renewal of a permit to use wastewater for irrigation which has been treated by a person other than the applicant must pay a fee in an amount equal to 75 percent of the amount of the fee required by subsection 1 for domestic wastewater.
3. The fee for a permit with a term of less than 5 years must be reduced by the director in accordance with the term of the permit, but in no case may the fee be reduced by an amount equal to more than one-third of the fee stated in subsection 1.
4. If required, the fee for the annual review and services must be submitted to the division on or before July 1 of each year.
5. If a storm water runoff permit is not required, the director may refund the application fee for the permit.

Sec. 4. NAC 445A.232 is hereby amended to read as follows:

445A.232. 1. Except as otherwise provided in subsections 2 and 5, a nonrefundable application fee must accompany each original application for a permit and each application to renew a permit which is submitted to or required by the director. The director shall charge the following fees:

Type of Discharge Permitted	Application Fee for Original Permit	Application Fee for Renewal of Permit	F e e f o r Annual Review and Services
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DOMESTIC WASTE WATER

5,000 or more but less than 25,000 gallons daily	\$375	\$125	\$600
25,000 or more but less			

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than 100,000 gallons daily	500	250	850
100,000 or more but less than 1,000,000 gallons daily	750	375	1,000
1,000,000 or more but less than 10,000,000 gallons daily	1,000	500	2,000
10,000,000 or more gallons daily	1,250	625	2,500

MANUFACTURING, POWER PLANTS (excluding geothermal power plants which are not subject to NPDES), MINING DEWATERING AND OTHER INDUSTRY

Cooling water only	\$625	\$315	\$1,000
Less than 50,000 gallons of process water daily	625	315	1,500
50,000 or more but less than 1,000,000 gallons of process water daily	875	440	2,000
1,000,000 or more but less than 5,000,000 gallons of process water daily	1,000	500	2,500
5,000,000 or more gallons of process water daily	1,250	625	3,000

WATER TREATMENT PLANTS

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Routine discharge	375	190	750

MINING

Discharging washwater where chemicals are not added for

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metallurgical recovery	\$500	\$500	\$250
Chemically processing less than 18,250 tons per year or a pilot or testing facility	500	500	250
Chemically processing 18,250 to less than 36,500 tons per year	1,500	1,500	[1,500] 2,000
Chemically processing 36,500 to less than 100,000 tons per year	4,000	4,000	[3,000] 4,000
Chemically processing 100,000 to less than 500,000 tons per year	6,000	6,000	[6,000] 8,000
Chemically processing 500,000 to less than 1,000,000 tons per year	10,000	10,000	[8,000] 10,000
Chemically processing 1,000,000 to less than 2,000,000 tons per year	14,000	14,000	[12,000] 14,000
Chemically processing more than 2,000,000 tons per year	20,000	20,000	[18,000] 20,000
Monitoring of closed facilities	250	250	500

STORM WATER RUNOFF

Industrial or commercial
facility, including any
structure, that is 5 to 10

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acres, inclusive, in size	\$300	\$150	\$750
Industrial or commercial facility, including any structure, that is greater than 10 acres and less than 25 acres in size	600	300	750
Industrial or commercial facility, including any structure, that is greater than 25 acres in size	1,000	500	750
Municipality whose population is 250,000 or less	600	300	750
Municipality whose population is greater than 250,000	1,000	500	1,000

MISCELLANEOUS DISCHARGES

Discharge from fish hatcheries	\$250	\$125	\$300
Other permits for discharge	250	125	500

2. An applicant for a permit or for the renewal of a permit to use wastewater for irrigation which has been treated by a person other than the applicant must pay a fee in an amount equal to 75 percent of the amount of the fee required by subsection 1 for domestic wastewater.

3. The fee for a permit with a term of less than 5 years must be reduced by the director in accordance with the term of the permit, but in no case may the fee be reduced by an amount equal to more than one-third of the fee stated in subsection 1.

4. If required, the fee for the annual review and services must be submitted to the division on or before July 1 of each year.

5. If a storm water runoff permit is not required, the director may refund the application fee for the permit.

Sec. 5. NAC 445A.418 is hereby amended to read as follows:

445A.418 1. The fee for a minor modification to a permit is one-half the amount of the renewal fee for a permit[.] , *up to a maximum of \$5,000.*

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2. The fee for a major modification to a permit is equal to the amount of the renewal fee for a permit.
3. ***The fee for the type of a modification described in section 1 of this regulation is \$500.***

Sec. 6. 1. Section 2 of this regulation expires by limitation on June 30, 1999.

2. Section 3 of this regulation becomes effective on July 1, 1999 and expires by limitation on June 30, 2001.

3. Section 4 of this regulation becomes effective on July 1, 2001.

END OF LCB File No. R027-97

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